

EXHIBIT 4

1 UNITED STATES DISTRICT COURT
2 WESTERN DISTRICT OF WASHINGTON AT SEATTLE

3
4 MICROSOFT CORPORATION,)
5 Plaintiff,) 10-01823-JLR
6 v.) SEATTLE, WASHINGTON
7 MOTOROLA INC., et al,) October 29, 2012
8 Defendant.) Pretrial
9) Conference

10 VERBATIM REPORT OF PROCEEDINGS
11 BEFORE THE HONORABLE JAMES L. ROBERT
12 UNITED STATES DISTRICT JUDGE

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14 APPEARANCES:

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17 For the Plaintiff: Arthur Harrigan, Christopher
18 Wion, David Pritikin and Richard
Cederoth

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21 For the Defendants: Jesse Jenner, Ralph
22 Palumbo, Steven Pepe, Philip
23 McCune, Stuart W. Yothers, and
24 Kevin J. Post
25

1 wrong. It's not even in the ballpark close. If you have had
2 your lawyer say to a witness: We don't participate in a
3 patent pool because we're dealing with strategic focus, that
4 is not attorney-client privilege. And the assertion of
5 privilege in regards to it is completely incorrect.

6 Additionally, the instruction by Motorola's counsel that
7 questions related to this subject were privileged and the
8 witnesses should only answer at a general level, precludes
9 Motorola's evidence because Microsoft was unable to continue
10 questioning on the subject. It would be unfair for Motorola
11 to offer testimony of its choice and have denied Microsoft
12 the opportunity to examine the testimony in detail.

13 There is a hypothetical way that this motion could be
14 granted. But even if it were granted, then the testimony
15 wouldn't be allowed. And so I won't get into it. But, for
16 example, if the Motorola attorney had told the witness: In
17 this litigation we are taking this position, and your answer,
18 or the company's reasoning involves the actions we're taking
19 in the litigation. That conceivably could be privileged.
20 However, the result is the same. The information would not
21 be available to Microsoft. So, in regards to part (a) the
22 court is granting the motion.

23 In regards to part (b) and (c) of this, they refer --
24 Microsoft's motion relates to what the parties refer to as
25 the "Google license." This is a late entry into the case and